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DIGEST OF MINNESOTA WATER POLLUTION CONTROL LEGISLATION

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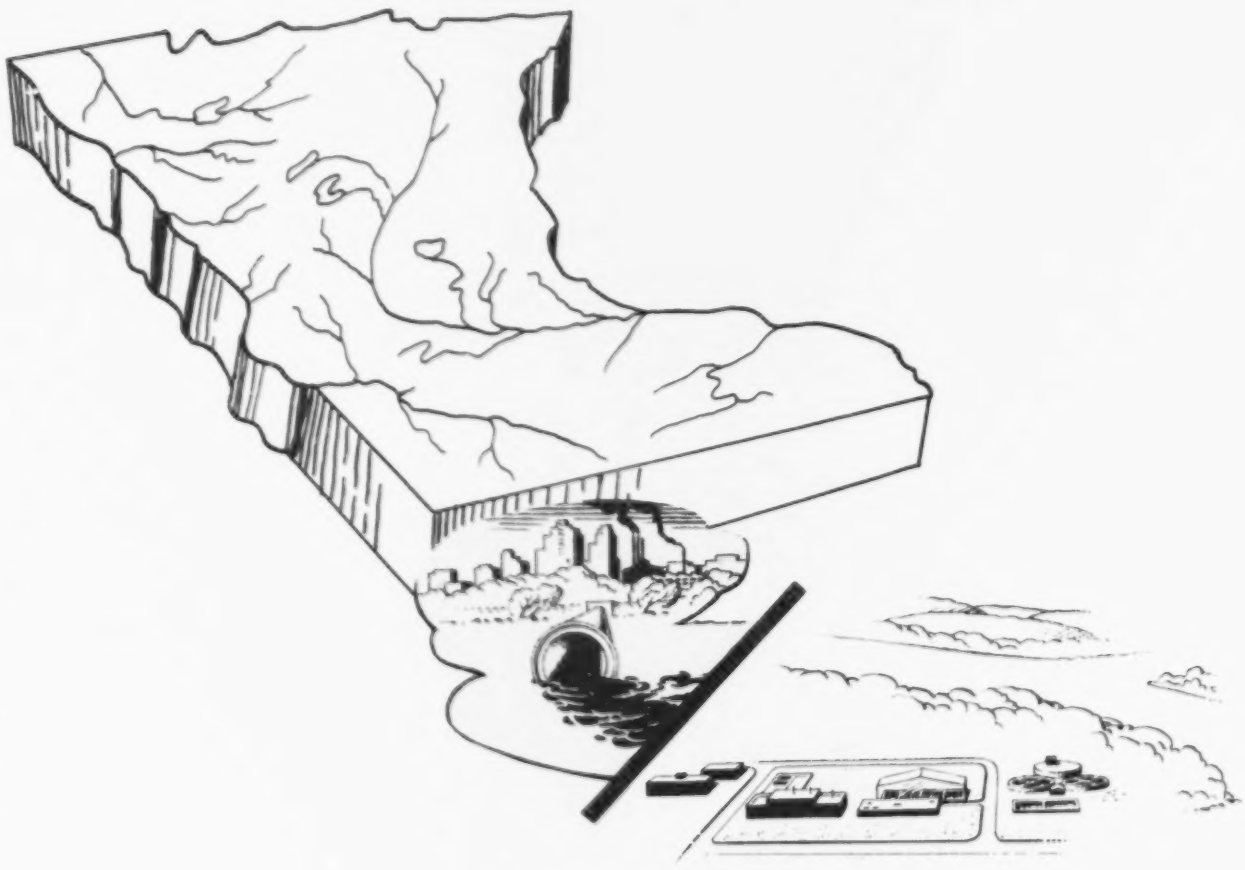

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

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I. GENERAL STATEMENT

The primary function for controlling water pollution rests with the Water Pollution Control Commission (Sec. 144.373)[1/]. However, the State Board of Health also exercises some functions relating to water pollution. These relate primarily to the sources of water supplies used for domestic purposes and to those which affect the public health (Sec. 144.38).

The 1957 Legislature created a Commission consisting of five members of the House and five members of the Senate, to study the problem of water pollution with respect to rivers, streams, lakes and subsurface waters of the State, to consider establishing sanitation districts where needed, and to recommend methods of controlling this problem. The Commission is authorized to act until the commencement of the next regular session of the Legislature. It must report its findings and recommendations to the Legislature by January 15, 1959. The sum of $25,000 has been appropriated for the expenses of the Commission (Laws of Minnesota, 1957, Ch. 779).

II. ADMINISTRATIVE ORGANIZATION

A. Water Pollution Control Commission

1. Composition and organization

The Commission consists of the Secretary and Executive Officer of the State Board of Health, the Commissioner of Conservation, the Commissioner of Agriculture, Dairy and Food, the Secretary and Executive Officer of the State Livestock Sanitary Board, and three members at large, appointed by the Governor, with the consent of the Senate, for six year terms. In making the

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1/ Citations in this digest refer to the Minnesota Statutes Annotated and the 1956 Cumulative Supplement thereto, unless otherwise indicated.

appointments of the members at large, the Governor appoints one member from the general public, one member from the field of municipal government, and one from industry. The Commission holds regular quarterly meetings each calendar year. At its first regular meeting in January of each year it elects a Chairman and a Vice-chairman to serve for the ensuing year. The Secretary and Executive Officer of the State Board of Health serves as Secretary of the Commission. Special meetings may be called by the Chairman or by any two members upon two days' written notice to each other member. A majority of the members constitute a quorum (1956 Cum. Supp., Sec. 144.372(1); Sec. 144.372(2)). The State Board of Health furnishes the Commission with a sanitary engineer, who acts as the Commission's Executive Engineer (Laws of Minnesota, 1957, Ch. 399, to be added to Minnesota Statutes Annotated as Sec. 144.38(2)).

2. Powers and duties

a) Classification of waters and setting standards of pollution

The Commission is authorized to classify the waters of the State. It is empowered to set pollution standards for any waters of the State in relation to the public use to which they are or may be put. (Sec. 144.373 (3)(4)).

b) Issuance of permits and review of plans

The Commission may require, (1) the submission for its approval of plans for disposal systems or any part thereof and (2) inspection of the construction thereof for compliance with the approved plans. It may also continue in effect, modify, revoke, or deny permits, for the discharge of sewage or other wastes, or for the installation or operation of disposal systems or parts thereof (Sec. 144.373(6)(7)(8)).

c) Enforcement

The Commission is authorized to issue final orders after a hearing held before it or its authorized agent. Anyone affected by the order must be given ten days written notice of the hearing, and must be afforded an opportunity to submit evidence. A copy of the final order of the Commission must be likewise served on all persons who have entered an appearance at the hearing. When the Commission has determined that an emergency exists affecting the public health, it may make a final order without notice or hearing. Such final order must be served as indicated above (Sec. 144.375 (1)(2)).

An aggrieved party may appeal from a final order of the Commission, or the Attorney General may appeal in behalf of the State, to the District Court of Ramsey County. The Court on its own motion or on application of any party may take additional evidence on any issue of fact or may try all such issues de novo, but without a jury trial. If the court determines that the action of the Commission appealed from is lawful and reasonable, and is warranted by the evidence, it affirms such action; otherwise, the Court may vacate or suspend the action appealed from in whole or in part, and thereupon the matter is remanded to the Commission for further action in conformity with the decision of the Court (Sec. 144.375(3)(7)). The effectiveness of the Commission's order is not stayed by an appeal except by order of the Court for cause shown by the appellant (Sec. 144.375(8)).

It is unlawful for anyone to construct, install or operate a disposal system, or any part thereof, until plans therefor have been submitted to the Commission unless the Commission has waived such submission and granted a written permit (Sec. 144.377(1)).

It is unlawful for anyone to make any changes in any existing disposal system that would materially alter the method or the effect of treating the sewage, or other wastes, or to operate such system, as so changed, until plans therefor have been submitted to the Commission unless the Commission has waived such submission and granted a written permit.(Sec. 144.377(3)).

The pollution of any waters in violation of the Act or of any order or regulation adopted by the Commission constitutes a public nuisance and may be enjoined (Sec. 144.377(4)).

Violation of any provision of the Act or of any regulation adopted by the Commission thereunder is a misdemeanor (Sec. 144.377(6)).

d) Conduct of studies, investigations, and research

The Commission is empowered to investigate the extent, character and effect of the pollution of the waters of the State and to gather information necessary to the administration or enforcement of the pollution laws (Sec. 144.373(3)).

e) Cooperation with other public or private agencies

The Commission may assist and cooperate with any agency of another state, of the United States or of the Dominion of Canada or any province thereof in any matter relating to the water pollution control. It may also receive and accept money, property, or services from any other source for any water pollution control purpose within the scope of its functions (Sec. 144.376(1)(2)).

f) Administrative powers

The Commission is authorized to hold hearings, issue orders, permits rules and regulations. It may administer oaths, examine witnesses, and issue subpoenas. The Commission members or agents may enter upon any property

for the purpose of obtaining information or conducting surveys. Anyone operating a disposal system, when requested by the Commission, must furnish it any information which he may have relevant to the Act. The Commission or an authorized agent may examine any books, papers, records or memoranda pertaining to the operation of a disposal system (Sec. 144.373(5)(7)(8)(9), sec. 144.374(1)(2)(3)).

3. Preservation of existing rights and remedies

The Act does not repeal any provisions of law relating to the pollution of any waters of the State, but is construed as supplementing the same and is in addition to the laws now in force, except as the same may be in direct conflict (Sec. 144.378).

B. State Board of Health

The Board administers and enforces all laws relating to water pollution where such pollution affects the public health. The Board makes such investigations of water pollution and the plans for the construction of works affecting water pollution as may be required by the Water Pollution Control Commission. The Board is authorized to cooperate with other departments of the state, municipalities, the United States, the Dominion of Canada or any province thereof, industries, corporations and individuals, to protect and free the waters of the State from pollution (Sec. 144.38).

In carrying out its water pollution functions, the Board is authorized to hold hearings and investigations, subpoena witnesses, administer oaths, and compel the production of books, papers, records and other evidence (Sec. 144.39).

In furtherance of its water pollution functions, the Board is authorized to receive funds, property and services from any person, firm corporation, municipal corporation, the State, any of its departments or officers, any other state, or the United States (Sec. 144.40).

The Board is authorized to adopt and enforce reasonable regulations regarding the disposal of sewage, the pollution of streams and the distribution of water by private persons for domestic use. When such regulations are approved by the Attorney General and published, they have the force of law, except insofar as they conflict with statute or with the charter or ordinance of cities of the first class (Laws of Minnesota, 1957, Chap. 361, to be added to Minnesota Statutes Annotated as Sec. 144.12).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is unlawful to throw or allow to run into any of the waters of the State any refuse, lime or other deleterious or poisonous substances in quantities injurious to fish life therein. Each day the violation continues is a separate offense. Recurrent violations are deemed a public nuisance and may be enjoined (Sec. 101.42, subdiv. 3(15)).

It is unlawful for anyone to furnish impure water for public or private use (Sec. 616.09).

It is unlawful for anyone to willfully poison any spring, well, or reservoir of water (Sec. 616.21).

It is a gross misdemeanor to deposit or cast into any lake, creek, or river wholly or partly in the State, or to deposit upon the ice of any such lake, creek, or river, the offal from, or the dead body of, any animal (Sec. 616.16).

IV. INTERSTATE COMPACTS

Minnesota is a party to a compact with the States of North Dakota and South Dakota relating to the utilization of the waters of the Red River of the North, for the control of the flood waters and the prevention of the pollution of such river (Secs. 114.09-114.11).